

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|------------------|---|--------------------------|
| Marion Brewster, |) | C/A No. 9:20-cv-1505-SAL |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | ORDER |
| Warden Phelps, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Molly H. Cherry (the “Report”), recommending dismissal of the petition without prejudice and without requiring a return. [ECF No. 14.] Attached to the Report is a Notice of Right to File Objections. *Id.* at p.6 No party filed objections to the Report, and the time for filing objections has lapsed.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a de novo determination of only those portions of the Report that have been *specifically* objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, and

incorporates the Report, ECF No. 14, by reference herein. Accordingly, the petition is **DISMISSED *without prejudice*** and without requiring a return.

IT IS SO ORDERED.

/s/ Sherri A. Lydon
United States District Judge

March 23, 2021
Florence, South Carolina